

Who Owns the Copyright to Software?

By Diane Bellavance

On August 31, 2000, the Quebec Superior Court rendered a decision regarding ownership of the concept for an Internet site. Mr. Von Huene developed an idea for an Internet site concept and entrusted Mr. Fox and Mr. Sauvé with the development of the computer program for the Internet site. Given that the *Copyright Act* protects the expression of ideas and not the ideas themselves, in the case at hand Fox and Sauvé were found to be the owners of the copyright. Given that Fox and Sauvé had not assigned their copyright or granted a licence to Von Huene in accordance with the *Copyright Act*, it was held that Fox and Sauvé were in fact the owners of all the copyrights to the program which created the Internet site. The court

therefore concluded that Von Huene did not have the right to use or exploit the program which created the Internet site, even if the original idea had been Von Huene's and even if he had duly remunerated Fox and Sauvé. Von Huene then attempted to plead that the program for his site was not the same as Fox and Sauvé's and that, in and of itself, the program for his site was different from Fox and Sauvé's program. However, in the case at hand, the evidence revealed that the site was indeed a copy or reproduction of the site created by Fox and Sauvé.

If you have any questions, please do not hesitate to contact Diane Bellavance of the firm Lavery, de Billy, at (514) 877-2907 or by e-mail at dbellava@lavery.qc.ca, or Simon Lemay at (800) 463-4002 or by e-mail at slemay@lavery.qc.ca.

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